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**UTAH LABOR COMMISSION**

**JASON W. IVIE,**

**Petitioner,**

**vs.**

**FRANKLIN COVEY CO. and  
PHOENIX INSURANCE CO.,**

**Respondents.**

**ORDER GRANTING REQUEST  
FOR RECONSIDERATION AND  
AMENDING ALJ'S ORDER**

**Case No. 06-0517**

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Franklin Covey Co. and its insurance carrier, Phoenix Insurance Co. (jointly referred to as "Franklin"), ask the Utah Labor Commission to reconsider its prior decision affirming Judge Hann's award of benefits to Jason W. Ivie under the Utah Occupational Disease Act, Title 34A, Chapter 3, Utah Code Annotated.

The Labor Commission exercises jurisdiction over this matter pursuant to Utah Code Annotated § 63-46b-13.

**BACKGROUND AND ISSUES PRESENTED**

Mr. Ivie claims workers' compensation benefits for a repetitive right shoulder injury he developed from his work at Franklin. Judge Hann awarded Mr. Ivie temporary total disability compensation beginning May 6, 2006, and continuing until he is medically stable. Franklin then requested Commission review, asserting it had knowledge that Mr. Ivie had returned to work and his compensation should terminate effective the date of that employment. However, Franklin failed to provide any substantiating evidence of this claim.<sup>1</sup> Based on Franklin's failure to substantiate its claim, the Commission affirmed Judge Hann's order.

Franklin now asks the Commission to reconsider its prior decision and has provided evidence that shows Mr. Ivie began working full-time as of February 4, 2007. Mr. Ivie filed a response that conceded he started working on February 4, 2007, and that his temporary total disability compensation should terminate as of that date.

**DISCUSSION**

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<sup>1</sup> In its request for Commission review, Franklin also stated that Judge Hann's findings and conclusions were either erroneous or inadequate, but failed to actually articulate any argument identifying the specific errors. In its request for reconsideration, Franklin renews this claim, but again, fails to actually articulate any argument identifying the specific errors. Therefore the Commission declines to address these issues or subject them to further reconsideration.

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Based on Franklin's evidence and Mr. Ivie's concession, the Commission finds that Mr. Ivie returned to work as of February 4, 2007, and that his temporary total disability compensation should terminate on that date. The Commission therefore enters the following amended order.

**ORDER**

The Commission affirms Judge Hann's award of benefits to Mr. Ivie but amends the first paragraph of Judge Hann's order at page 7 of the decision as follows:

**IT IS THEREFORE ORDERED** The respondents, Franklin Covey Co. and Phoenix Insurance Co., are liable to Jason W. Ivie for temporary total disability compensation at the rate of \$181.00 per week, less attorney's fees payable directly to Phillip B. Shell, Attorney at Law, pursuant to R602-2-4, U.A.C., beginning May 6, 2006, and continuing until February 4, 2007, when he obtained employment. Those amounts through February 4, 2007, are accrued and due and payable in the amount of \$7,110.77, plus interest at the rate of 8% per annum, less attorney's fees payable to Phillip B. Shell, Attorney at Law, in the amount of \$1,422.15 plus 20% of the interest payable.

It is so ordered.

Dated this 1<sup>st</sup> day of May, 2008.

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Sherrie Hayashi  
Utah Labor Commissioner

**NOTICE OF APPEAL RIGHTS**

Any party may appeal this Order to the Utah Court of Appeals by filing a Petition For Review with that Court within 30 days of the date of this Order.